

**ASSEMBLY BILL**

**No. 1341**

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**Introduced by Committee on Environmental Safety and Toxic  
Materials (Ruskin (Chair), Tran (Vice Chair), Chu, De La  
Torre, Goldberg, Jerome Horton, and Strickland)**

February 22, 2005

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An act to amend Sections 25211.3, 25211.4, and 25404 of the Health and Safety Code, relating to hazardous waste.

LEGISLATIVE COUNSEL'S DIGEST

AB 1341, as introduced, Committee on Environmental Safety and Toxic Materials. Hazardous waste; major appliance disposal.

Existing law prohibits the disposal of materials that require special handling from a major appliance at a solid waste facility, pursuant to the hazardous waste control laws, and requires those materials to be removed from major appliances in which they are contained before the appliance is crushed, baled, shredded, sawed or sheared apart, disposed of, or otherwise processed.

Existing law requires a person who transports, delivers, or sells discarded major appliances to a scrap recycling facility, after January 1, 2006, to provide evidence that the person is a certified appliance recycler, except as specified, and prohibits a scrap recycling facility from accepting a discarded major appliance, after January 1, 2006, from any person who is not a certified appliance recycler.

This bill would make technical nonsubstantive changes to those provisions.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

SECTION 1. Section 25211.3 of the Health and Safety Code is amended to read:

25211.3. A certified appliance recycler, and any person who is not a certified appliance recycler who is subject to subdivision (b) or (c) of Section 25211.2, shall retain onsite records demonstrating compliance with applicable requirements of this article and Section 42175 of the Public Resources Code. The records shall be retained for three years and shall be made available for inspection, upon the request of a representative of the department or a CUPA. The records shall be retained, after that three-year period, during the course of an unresolved enforcement action or as requested by the department or CUPA. The records shall include, but not be limited to, all of the following information:

(a) The amount, by volume or weight or both, as determined by the department, of each material that required special handling.

(b) The method used by the *certified* appliance recycler to recycle, dispose of, or otherwise manage each material that required special handling, including the name and address of the facility to which each material was sent.

SEC. 2. Section 25211.4 of the Health and Safety Code is amended to read:

25211.4. (a) On and after July 1, 2005, a person wishing to operate as a certified appliance recycler shall submit an application to the department and obtain certification from the department pursuant to this section. On or before May 1, 2005, the department shall make available on its Web site an application for certification as a certified appliance recycler that includes all of the following:

(1) The business name under which the appliance recycler operates, and the business owner's name, address, and telephone number.

(2) A hazardous waste generator identification number issued by the department pursuant to this chapter.

(3) A statement indicating that the applicant has either filed an application for a ~~stormwater~~ storm water permit or is not required to obtain a ~~stormwater~~ storm water permit.

1 (4) A statement indicating that the applicant has either filed a  
2 hazardous materials business plan or is not required to file the  
3 plan.

4 (5) The tax identification number assigned by the Franchise  
5 Tax Board.

6 (6) A copy of a business license and any conditional use  
7 permits issued by the appropriate city or county.

8 (7) A description of the ability of the applicant to properly  
9 remove and manage all materials that require special handling,  
10 including, but not limited to, a technical description of all  
11 equipment used in removing and managing the materials and the  
12 training provided to personnel engaged in the removal and  
13 managing of the materials.

14 (8) Any other information that the department may determine  
15 to be necessary to carry out this article.

16 (b) A person wishing to operate as a certified appliance  
17 recycler shall submit to the department, under penalty of perjury,  
18 the information required pursuant to subdivision (a). The  
19 department shall review the application for completeness and,  
20 upon determining that the application is complete and meets the  
21 requirements of this section, shall issue a numbered certificate to  
22 the applicant. The department shall notify an applicant whose  
23 application fails to meet the requirements for certification of the  
24 reason why the department denied the certification. The  
25 department may revoke or suspend a certification issued pursuant  
26 to this section, in accordance with the procedures specified in  
27 Sections 25186.1 and 25186.2, for any of the grounds specified  
28 in Section 25186.

29 (c) The certificate issued by the department shall include the  
30 issuance date and the expiration date, which shall be three years  
31 after the issuance date. A person whose certification has expired,  
32 and who has not applied for and obtained a new current  
33 certification, is no longer a certified appliance recycler and may  
34 no longer operate as a certified appliance recycler.

35 (d) Upon issuance of a certificate, the department shall  
36 transmit the application and certification of the certified  
37 appliance recycler to the certified uniform program agency in  
38 whose jurisdiction the person is located, which shall, as soon as  
39 is practicable, inspect the certified appliance recycling facility to  
40 determine whether the recycler is capable of properly removing

1 and managing materials that require special handling from major  
2 appliances. In making the determination, the certified ~~uniform~~  
3 *unified* program agency shall consider various factors, including,  
4 but not limited to, the working condition of equipment used to  
5 remove the materials, the technical ability of employees of the  
6 business to operate the equipment proficiently, and the facility's  
7 compliance with existing applicable laws.

8 SEC. 3. Section 25404 of the Health and Safety Code, as  
9 amended by Section 9 of Chapter 880 of the Statutes of 2004, is  
10 amended to read:

11 25404. (a) For purposes of this chapter, the following terms  
12 shall have the following meanings:

13 (1) (A) "Certified Unified Program Agency" or "CUPA"  
14 means the agency certified by the secretary to implement the  
15 unified program specified in this chapter within a jurisdiction.

16 (B) "Participating Agency" or "PA" means a state or local  
17 agency that has a written agreement with the CUPA pursuant to  
18 subdivision (d) of Section 25404.3, and is approved by the  
19 secretary, to implement or enforce one or more of the unified  
20 program elements specified in subdivision (c), in accordance  
21 with Sections 25404.1 and 25404.2.

22 (C) "Unified Program Agency" or "UPA" means the CUPA,  
23 or its participating agencies to the extent each PA has been  
24 designated by the CUPA, pursuant to a written agreement, to  
25 implement or enforce a particular unified program element  
26 specified in subdivision (c). The UPAs have the responsibility  
27 and authority to implement and enforce the requirements listed in  
28 subdivision (c), and the regulations adopted to implement the  
29 requirements listed in subdivision (c), to the extent provided by  
30 Chapter 6.5 (commencing with Section 25100), Chapter 6.67  
31 (commencing with Section 25270), Chapter 6.7 (commencing  
32 with Section 25280), Chapter 6.95 (commencing with Section  
33 25500), and Sections 25404.1 and 25404.2. After a CUPA has  
34 been certified by the secretary, the unified program agencies and  
35 the state agencies carrying out responsibilities under this chapter  
36 shall be the only agencies authorized to enforce the requirements  
37 listed in subdivision (c) within the jurisdiction of the CUPA.

38 (2) "Department" means the Department of Toxic Substances  
39 Control.

(3) “Minor violation” means the failure of a person to comply with any requirement or condition of any applicable law, regulation, permit, information request, order, variance, or other requirement, whether procedural or substantive, of the unified program that the UPA is authorized to implement or enforce pursuant to this chapter, and that does not otherwise include any of the following:

(A) A violation that results in injury to persons or property, or that presents a significant threat to human health or the environment.

(B) A ~~knowing~~ *knowingly* willful or intentional violation.

(C) A violation that is a chronic violation, or that is committed by a recalcitrant violator. In determining whether a violation is chronic or a violator is recalcitrant, the UPA shall consider whether there is evidence indicating that the violator has engaged in a pattern of neglect or disregard with respect to applicable regulatory requirements.

(D) A violation that results in an emergency response from a public safety agency.

(E) A violation that enables the violator to benefit economically from the noncompliance, either by reduced costs or competitive advantage.

(F) A class I violation, as provided in Section 25117.6.

(G) A class II violation committed by a chronic or a recalcitrant violator, as provided in Section 25117.6.

(H) A violation that hinders the ability of the UPA to determine compliance with any other applicable local, state, or federal rule, regulation, information request, order, variance, permit, or other requirement.

(4) “Secretary” means the Secretary for Environmental Protection.

(5) “Unified program facility” means all contiguous land and structures, other appurtenances, and improvements on the land that are subject to the requirements listed in subdivision (c).

(6) “Unified program facility permit” means a permit issued pursuant to this chapter. For the purposes of this chapter, a unified program facility permit encompasses the permitting requirements of Section 25284, and any permit or authorization requirements under any local ordinance or regulation relating to the generation or handling of hazardous waste or hazardous

1 materials, but does not encompass the permitting requirements of  
2 a local ordinance that incorporates provisions of the Uniform Fire  
3 Code or the Uniform Building Code.

4 (b) The secretary shall adopt implementing regulations and  
5 implement a unified hazardous waste and hazardous materials  
6 management regulatory program, which shall be known as the  
7 unified program, after holding an appropriate number of public  
8 hearings throughout the state. The unified program shall be  
9 developed in close consultation with the director, the Director of  
10 the Office of Emergency Services, the State Fire Marshal, the  
11 executive officers and chairpersons of the State Water Resources  
12 Control Board and the California regional water quality control  
13 boards, the local health officers, local fire services, and other  
14 appropriate officers of interested local agencies, and affected  
15 businesses and interested members of the public, including  
16 environmental organizations.

17 (c) The unified program shall consolidate the administration of  
18 the following requirements, and shall, to the maximum extent  
19 feasible within statutory constraints, ensure the coordination and  
20 consistency of any regulations adopted pursuant to those  
21 requirements:

22 (1) (A) Except as provided in subparagraphs (B) and (C), the  
23 requirements of Chapter 6.5 (commencing with Section 25100),  
24 and the regulations adopted by the department pursuant thereto,  
25 *that are* applicable to all of the following:

26 (i) Hazardous waste generators, persons operating pursuant to  
27 a permit-by-rule, conditional authorization, or conditional  
28 exemption, pursuant to Chapter 6.5 (commencing with Section  
29 25100) or the regulations adopted by the department.

30 (ii) Persons managing perchlorate materials.

31 (iii) Persons subject to Article 10.1 (commencing with Section  
32 25211) of Chapter 6.5.

33 (B) The unified program shall not include the requirements of  
34 paragraph (3) of subdivision (c) of Section 25200.3, the  
35 requirements of Sections 25200.10 and 25200.14, and the  
36 authority to issue an order under Sections 25187 and 25187.1,  
37 with regard to those portions of a unified program facility that are  
38 subject to one of the following:

39 (i) A corrective action order issued by the department pursuant  
40 to Section 25187.

1 (ii) An order issued by the department pursuant to Chapter 6.8  
2 (commencing with Section 25300) or Chapter 6.85 (commencing  
3 with Section 25396).

4 (iii) A remedial action plan approved pursuant to Chapter 6.8  
5 (commencing with Section 25300) or Chapter 6.85 (commencing  
6 with Section 25396).

7 (iv) A cleanup and abatement order issued by a California  
8 regional water quality control board pursuant to Section 13304 of  
9 the Water Code, to the extent that the cleanup and abatement  
10 order addresses the requirements of the applicable section or  
11 sections listed in this subparagraph.

12 (v) Corrective action required under subsection (u) of Section  
13 6924 of Title 42 of the United States Code or subsection (h) of  
14 Section 6928 of Title 42 of the United States Code.

15 (vi) An environmental assessment pursuant to Section  
16 25200.14 or a corrective action pursuant to Section 25200.10 or  
17 paragraph (3) of subdivision (c) of Section 25200.3, that is being  
18 overseen by the department.

19 (C) The unified program shall not include the requirements of  
20 Chapter 6.5 (commencing with Section 25100), and the  
21 regulations adopted by the department pursuant thereto,  
22 applicable to persons operating transportable treatment units,  
23 except that any required notice regarding transportable treatment  
24 units shall also be provided to the CUPAs.

25 (2) The requirement of subdivision (c) of Section 25270.5 for  
26 owners and operators of aboveground storage tanks to prepare a  
27 spill prevention control and countermeasure plan.

28 (3) (A) Except as provided in subparagraphs (B) and (C), the  
29 requirements of Chapter 6.7 (commencing with Section 25280)  
30 concerning underground storage tanks and the requirements of  
31 any underground storage tank ordinance adopted by a city or  
32 county.

33 (B) The unified program may not include the responsibilities  
34 assigned to the State Water Resources Control Board pursuant to  
35 Section 25297.1.

36 (C) The unified program may not include the corrective action  
37 requirements of Sections 25296.10 to 25296.40, inclusive.

38 (4) The requirements of Article 1 (commencing with Section  
39 25500) of Chapter 6.95 concerning hazardous ~~material~~ *materials*  
40 release response plans and inventories.

1 (5) The requirements of Article 2 (commencing with Section  
2 25531) of Chapter 6.95, concerning the accidental release  
3 prevention program.

4 (6) The requirements of subdivisions (b) and (c) of Section  
5 80.103 of the Uniform Fire Code, as adopted by the State Fire  
6 Marshal pursuant to Section 13143.9 concerning hazardous  
7 material management plans and inventories.

8 (d) To the maximum extent feasible within statutory  
9 constraints, the secretary shall consolidate, coordinate, and make  
10 consistent these requirements of the unified program with other  
11 requirements imposed by other federal, state, regional, or local  
12 agencies upon facilities regulated by the unified program.

13 (e) (1) The secretary shall establish standards applicable to  
14 CUPAs, participating agencies, state agencies, and businesses  
15 specifying the data to be collected and submitted by unified  
16 program agencies in administering the programs listed in  
17 subdivision (c). Those standards shall incorporate any standard  
18 developed under Section 25503.3.

19 (2) The secretary shall establish an electronic geographic  
20 information management system capable of receiving all data  
21 collected by the unified program agencies pursuant to this  
22 subdivision and Section 25504.1. The secretary shall make all  
23 nonconfidential data available on the Internet.

24 (3) (A) As funding becomes available, the secretary shall  
25 establish, consistent with paragraph (2), and thereafter maintain,  
26 a statewide database.

27 (B) The secretary, or one or more of the boards, departments,  
28 or offices within the California Environmental Protection  
29 Agency, shall seek available federal funding for purposes of  
30 implementing this subdivision.

31 (4) Once the statewide database is established, the secretary  
32 shall work with the CUPAs to develop a phased-in schedule for  
33 the electronic collection and submittal of information to be  
34 included in the statewide database, giving first priority to  
35 information relating to those chemicals determined by the  
36 secretary to be of greatest concern. The secretary, in making this  
37 determination shall consult with the CUPAs, the Office of  
38 Emergency Services, the State Fire Marshal, and the boards,  
39 departments, and offices within the California Environmental  
40 Protection Agency. The information initially included in the



1 statewide database shall include, but is not limited to, the  
2 hazardous materials inventory information required to be  
3 submitted pursuant to Section 25504.1 for perchlorate materials.

4 (f) This section shall remain in effect only until January 1,  
5 2006, and as of that date is repealed, unless a later enacted  
6 statute, that is enacted before January 1, 2006, deletes or extends  
7 that date.

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21 the Office of Emergency Services, the State Fire Marshal, the  
22 executive officers and chairpersons of the State Water Resources  
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14 hazardous materials inventory information required to be  
15 submitted pursuant to Section 25504.1 for perchlorate materials.

16 (f) This section shall become operative January 1, 2006.